



Allstate[®]
You're in good hands.

September 4, 2012

**Allstate Canada Group
Response to The Steering Committee of the
Ontario Auto Insurance Anti-Fraud Task Force
On the Proposed Recommendations tabled in the Update (July 2012)**
Submitted by email

On behalf of the Allstate Canada Group of Companies (ACG), which includes Allstate Insurance Company of Canada, Pembroke Insurance Company and Pafco Insurance Company, I would like to take this opportunity to respond directly to the proposed recommendations of the Steering Committee of the Ontario Auto Insurance Anti-Fraud Task Force

Overall, ACG believes the mandate of the Anti-Fraud Task Force is the cornerstone for a strong foundation moving forward and applauds the Task Force on their progress to date. We believe this is a complex issue and as such it can't be resolved overnight, nor in one swift go, but will take a multi-faceted approach delivered with great consistency, rigour and tenacity over time. Clearly this is also the perspective of the Task Force based upon the scope and scale of recommendations contained in the update from July 2012.

It is very encouraging that insurance regulators and industry representatives have continued to work closely together over the past year to address issues around detection and prevention of insurance fraud, a crime that affects individual consumers directly, and also creates broader negative impacts on the economy that, while they are difficult to quantify, affect the overall health of the insurance marketplace. Consumers deserve nothing less than complete openness and transparency from the insurance industry and its representatives on this issue, though in and of itself, the issue is not one where transparency is easy to create. Fraud, by nature, is a culture of non-disclosure. It is incumbent upon the industry to earn the trust and confidence of consumers through education and information on this matter, when and how we can.

Please find below our specific feedback for the Steering Committee on the requested items tabled in the report.

1) Licensing and regulation of health clinics

Transparency:

- We do not necessarily believe the proposed regulatory regime needs to include IME doctors. This is because the Task Force Report specifically refers to mandating the disclosure of the schedule of fees paid to RHP's for completing assessments –it may help transparency but for what purpose?
- However should they ultimately decide to include IME doctors we don't think it would be a great concern.
- Also we believe that the conflict of interest provisions similar to that existed in the previous legislation (lawyers, paralegals, doctors referring to clinics they had financial interest in be disclosed) be put back in –in the 34/10 legislation it was changed to include insurers only (see last paragraph appendix 5 of the report)

Accountability:

- We are in full agreement with a designated individual responsible for the integrity of the business processes within the clinic. We also agree that this might not necessarily be the owner but should be a designated RHP where the owner is not a RHP. This would include requiring that the designated regulated health care practitioners regularly confirm that appropriate business practices are being followed.

Verification:**Sanctions:**

- We think it makes sense for FSCO to implement & oversee the licensing & regulatory regime to be recommended (if not FSCO who?).
- We don't have specific comments on how to make this as efficient as possible without losing effectiveness.

2) Other possible gaps in regulation***Regulation of the towing industry***

- We agree that there are members of the towing industry that are participating in paid referrals, improper billing practices, which include excessive costs and services not actually being rendered.
- We also agree that consumer education is critical and as such consumers should be given better information, including information about personal rights and responsibilities, as well as existing protection from potentially unfair or deceptive acts or practices. It is our view that the industry should support this initiative by incorporating information on towing in our mailings, websites etc.
- We are in full agreement on strengthening & providing greater consistency on existing bans on paid referrals to other services by creating a province wide ban.
- The Regulatory Practices Working Group is key. We also feel that additional education should be provided to our police officers to be made aware of the potential fraud occurring after the vehicles leave the scene on a tow truck.
- As far as the initiatives that have been taken in Halton Region, we would draw your attention to what the municipality of Mississauga does with regards to their policies and enforcement practices. Their system covers all aspects of towing (related charges, storage, distance, re-tows, etc.,) which makes it more difficult for towers to inflate their invoices.
- We would also like to point out that much of the fraudulent activity starts at the scene of the accident, where influence can be brought to bear on the vehicle owner who is in a vulnerable position. Controls need to focus on protecting the customer at the point of claim. More attention needs to be paid to the towing industry as much of the fraud could be curtailed sooner in the claim process
- Harmonized municipal business licensing: It makes sense to leverage what municipalities have done and to build upon that basis with provincially set standards/requirements. We support a Designated Administrative Authority. There are members of the industry that say the DAA is not a workable model because the towing sector is not provincially regulated and therefore not mature enough to develop the DAA at this time. Nonetheless, an interim harmonized solution could be put into place until a DAA could be established.

- The RPWG is continuing to look at market based options. We like the content of the Halton based rotational model which we think would help eliminate towing chasers. This model in conjunction with licensing would be preferred.

Enhanced authorities for FSCO

Regulations governing relations between insurers and claimants

We are in support of enhanced authorities for FSCO being implemented, including the ability to regulate business practices of health care treatment & assessment facilities. Further, we are in full agreement that FSCO should take a more active role in investigating & prosecuting offences including administrative sanctions. The nature of the Automobile policy makes the provision of applicable health care and assessment a critical component of the insurance product. It follows that the provincial regulator needs to have authority reaching to those components in order to ensure the effective operation of the product, and the protection of the public.

We are also in agreement with the 6 items noted under appendix 4 to increase the ability of FSCO to obtain information.

Unfair & Deceptive Acts & Practices (UDAP)

We agreed that the first items appear reasonable on their face. We offer the following comments on specific sub-items. It is our understanding that the section refers primarily to clinics, but as the power does not exclude the application to insurers, we also considered its application in that environment.

(vii) Expand the list of items that can be removed during an examination-

While the power to take copies of information is acceptable, the power to remove physical devices appears problematic and is too broad.

(viii) Expand the duty to assist to include not just opening the books and facilitating an examination in s. 443(3).

This should include a restriction as to a reasonable time frame.

Regulations governing relations between insurers & claimants/ Tightened controls on delivery of Accident Benefits

We are in agreement with the 6 changes proposed in the report.

In addition-

#3 “Require claimants to attend up to two examinations under oath upon request of insurer”. We concur with this amendment, and note that additional criteria would be needed around this proposal; we presume that one would be reasons why an insurer could need the 2nd EUO. We also suggest access to a dispute mechanism if the insurer’s request was disputed.

#4 “Require a claimant to pay their insurer a \$500 fee for missing a medical examination as requested”. We agree this is needed and note that the task force is suggesting that it is the responsibility of the insurer to collect. We suggest it is inappropriate for the insurer to deduct this amount from benefits owed, as it creates a number of issues, and that an arbitrator or court should have the ability to deduct this in their decisions.

#7 “Require insurers to include an itemized list of expenses in the benefit statement sent to claimants every two months”. We concur with this proposal. It is noted that this will require

system programming changes. We also concur that including on the statement how to report fraud makes absolute sense.

Consent and disclosure of personal information

We are in agreement with the direction the Task Force has taken on this issue. Changes to the policy application and benefits application to provide greater certainty about the ability to share information would be useful.

Providing insurers with broader civil immunity

We support the recommendation to broaden the existing civil immunity provisions in the *Insurance Act* to protect insurers from civil suits for reporting to regulators or the police when they have suspicions of fraudulent behaviour by their own policyholders.

Development of a consumer engagement and education strategy

Essential information at critical times

We agree that it is important to address key opportunities to educate around insurance fraud when it is most relevant and topical to consumers, as this is not an issue they are likely to proactively seek information on outside of their interactions around the vehicle registration and licensing, insurance purchase and/or insurance claim process. The Steering Committee has delivered a comprehensive list of those opportunities in their report:

- reporting collisions;
- having a vehicle towed;
- visiting a Collision Reporting Centre
- receiving the now-mandatory 60-day benefit statement issued by insurers to claimants;
- purchasing or renewing an insurance policy;
- receiving or renewing a driver's licence or vehicle registration; and
- other identified times when consumers are looking for information and would be receptive to receiving it.
- the dedicated website being developed by the Working Group must be integrated into content created to engage and educate consumers at key learning moments.
- consumer engagement and education approaches used at key learning moments in Ontario's auto insurance system should be sensitive to the diverse population of the Greater Toronto Area (GTA).

In our estimation, education resources must be focused, especially if costs are to be considered in the delivery of the communication. Of the key "moments of truth" noted above, we would consider the top three opportunities to be 1) at driver's license and vehicle registration 2) at purchase of an insurance policy and 3) at report of a claim, particularly at a CRC. While a dedicated website can be an important key repository for relevant information, the most effective approach may be a fairly old-fashioned one at these key moments, such as a flyer that can be included along with other critical documents as they are being delivered to consumers, which contain the top four of five key messages around insurance fraud, with a link back to the website. This effort needs to be mindful that it should not impede the consumer's progress in license renewal, insurance purchase or making a claim, but should be easy for the consumer in delivery

requirements of the information. A funding strategy and cost-effectiveness of the delivery are also a key factor and this will be a fine balance to deliver messages consistently at key moments without incurring major costs to do so.

Dedicated website

Identifying preferred providers as suggested is acceptable, however sharing the criteria for their selection would not be. Providing criteria for selection would be tantamount to offering competitor companies information which we consider a competitive advantage and part of confidential business operations.

Comments on accountability for communication:

A shared approach between industry and regulatory and/or government bodies is critical to the success of this effort. At ACG we have always considered the consumer education efforts of FSCO as primary to their mandate, and of great value to all stakeholders. Similarly we take our own accountabilities seriously. We have dedicated websites for consumer education, and actively communication around consumer fraud (see www.goodhandsadvice.ca for an example). We would be pleased to work with the Task Force on an approach to communication strategy around insurance fraud.

**Thank you for the opportunity to share our comments with the Steering Committee.
Should you have questions or wish further consultation, please contact:**

Karyn Toon
Director, Corporate Relations
Allstate Canada group of companies
ktoon@allstate.ca
voice: 905-475-4962